

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

APR 15 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Applications of	)	MM Docket No. 93-26
STEVEN L. GRADICK	)	File No. BPH-911031MD
TERRY C. JENKS	)	File No. BPH-911031MF
For Construction Permit for	)	
a New FM Station in Bowdon,	)	
Georgia	)	

To: The Honorable Richard L. Sippel  
Administrative Law Judge

**REPLY TO  
OPPOSITION TO MOTION TO MODIFY ISSUES**

Steven L. Gradick ("Gradick"), by his attorneys, hereby respectfully submits this his Reply to Opposition to Motion to Modify Issues, filed by Terry C. Jenks ("Jenks") on April 7, 1993 and Reply to Opposition to Motion to Modify Issues, filed by the Mass Media Bureau on April 8, 1993.

In support thereof, the following is respectfully shown:

1. Gradick's Motion to Modify filed March 26, 1993 asked that any grant to Jenks in this proceeding be conditioned upon the outcome of proceedings still pending before the Commission in which allegations of misconduct with respect to Jenks had been made which if true may have an impact on Jenks' fitness to be a Commission licensee.

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The Motion identified a Petition for Reconsideration filed on September 19, 1991 and a Request for Inquiry filed September 26, 1991. At the time the Motion was filed, counsel's information indicated that both matters were still pending. It was subsequently pointed out that the Commission had disposed of the Request for Inquiry by declining to institute an inquiry, but that the Petition for Reconsideration was still pending. As soon as this fact was brought to counsel's attention, it was reported to the Presiding Judge by a Supplement to our Motion dated April 2, 1993. The Supplement was filed before responsive pleadings were due. <sup>1/</sup>

2. Nonetheless, the premise for the Motion remains valid. There are unresolved issues with respect to Mr. Jenks in matters still pending before the Commission. While these matters should not be litigated in connection with the instant application proceeding, any grant to Jenks should be conditioned on their ultimate disposition. If the issues raised in the pending Petition for Reconsideration are resolved by denial of the Petition or in any other manner in which there are no adverse findings with respect to the alleged conduct of Jenks, the matter will have been rendered moot. However, in the event that there may be findings

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<sup>1/</sup> Counsel regrets any inconvenience this inaccurate statement may have caused any of the parties to this proceeding.


adverse to Jenks, the requested condition would protect the public interest by ensuring that any grant to Jenks be conditioned upon the outcome of the pending matter.

**WHEREFORE** the premises considered, Gradick submits that there is a reasonable basis for the relief requested in the Motion to Modify, that the basis for that relief remains, notwithstanding the fact that the Commission has elected not to institute the inquiry requested by Design Media on September 26, 1991, and that the Motion meets the procedural requirements of §1.229 in that it was timely filed and that it is properly supported since the matters on which the Motion is predicated are matters of which official notice may be taken. Thus, it is respectfully submitted that under all of the circumstances, that the issues should be modified to condition any grant to Jenks on the outcome of the disposition of the Petition for Reconsideration in MM Docket No. 93-26.

Respectfully submitted,

**STEVEN L. GRADICK**

By:

  
David L. Hill  
Audrey P. Rasmussen  
His Attorneys

O'Connor & Hannan  
1919 Pennsylvania Avenue, N.W.  
Suite 800  
Washington, D.C. 20006  
(202) 887-1400

Dated: April 15, 1993

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**CERTIFICATE OF SERVICE**

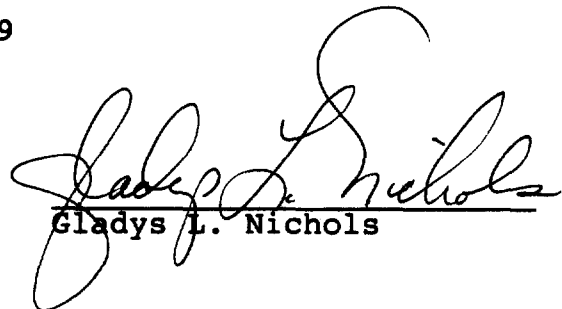
I, Gladys L. Nichols, do hereby certify that on this 15th day of April, 1993, the foregoing **REPLY TO OPPOSITION TO MOTION TO MODIFY ISSUES** was served to the following persons by First Class Mail:

\* The Honorable Richard L. Sippel  
Administrative Law Judge  
Federal Communications Commission  
2000 L Street, N.W., Room 214  
Washington, D.C. 20554

James Shook  
Hearing Branch  
Enforcement Division  
Mass Media Bureau  
Federal Communications Commission  
2025 M Street, N.W., Suite 7212  
Washington, D.C. 20554

Chief, Data Management Staff  
Audio Services Division  
Mass Media Bureau  
Federal Communications Commission  
1919 M Street, N.W., Room 302  
Washington, D.C. 20554

Patricia A. Mahoney, Esq.  
Fletcher, Heald & Hildreth  
1300 North 17th Street  
11th Floor  
Rosslyn, VA 22209

  
Gladys L. Nichols

\* Hand Delivered